IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Contempt Petition No. 142 of 2005

Revandhar Padalia
S/o Sri Durga Dutt Padalia
Bhimtal District- Nainital ……..Petitioner

Vs.

Sri Om Prakash
Secretary, Department of Horticulture
Dehradun & others ……..Respondents

Shri S.S. Chaudhary and Shri Kurban Ali, learned counsel for the petitioner.
None for the respondents

Hon'ble Prafulla C. Pant, J.

This contempt petition, has been moved, complaining the disobedience of order dated 19.12.2003, in writ petition No. 4464 of 2001 (S/S).

The operative portion of the order dated 19.12.2003, passed in aforesaid writ petition reads as under:-

"*Without entering into the merits of the claims of the petitioner, the respondents are directed to decide the representation of the petitioner in the light of the recommendations made in favour of the petitioner within a period of six weeks from the date of filing of the certified copy of this order.*

Subject to aforesaid observations, the writ petition is disposed of."

Annexure-5 to the writ petition , is a copy of the order dated 12/17th March, 2004, in which Director of Horticulture Department, has mentioned that in compliance of the orders dated 19.12.2003 (wrongly written as 14.12.2003), passed in writ petition No. 4464 of 2001 (S/S), the representations dated 12.05.99, 12.06.99 and 24.04.2001 were considered. It is

mentioned in said order that the petitioner joined the work on daily wages at his will. It is further stated in said order that he made representations for regularization of his services but due to non availability of the post, the request could not be accepted and representations were thus rejected. As such, it appears that the compliance of the order of the court was made by the respondents.

Learned counsel for the petitioner, argued that the aforesaid order dated 12/17th March, 2004, is not passed, keeping in view of the recommendations and observations made by the court in its order dated 19.12.2003, passed in writ petition No. 4464 of 2001 (S/S). This Court is not commenting as to the point whether the order dated 12/17th March, 2004, is right or wrong. If it is wrong, the petitioner may seek remedy on fresh cause of action. Learned counsel for the petitioner drew the attention of this Court to the interim order dated 26.09.2001, passed in aforesaid writ petition and interim order dated 04.04.2002, passed in the Special Appeal filed against said earlier interim order, passed by the learned Single Judge. However, after the writ petition was finally disposed of, both the interim orders are infructuous. The Division Bench of this Court, vide its order dated 18.12.2004, in Special Appeal No. 06 of 2002, itself has observed as under:-

"This matter has become infructuous obviously for the simple reason that the appeal was against the interim order directing the respondents to pay minimum of pay scale on the post to the petitioner therein. Now even that writ petition wherein the interim order was passed (W.P. No. 4464 (S/S) of 2001) has been finally disposed of vide judgment and order dated 19/12/2003 passed by Tandon J. and the petitioner was directed to decide the representation. In that view, there will be no question of proceeding with this special appeal.

The special appeal is accordingly, disposed of as infructuous."

In view of the above observations of the Division Bench, nothing remains to be complied with on the basis of the interim order. The disobedience of interim order is not complained in the present contempt petition.

For the discussions as above, the contempt petition is liable to be dismissed and is dismissed in limine.

(Prafulla C. Pant, J.)

Dt: 21.07.2005

Sweta